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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|----------------------|
| 09/647,864 | 01/10/2001 | Trevor Cunningham | 9083-6 | 5804 |
| 20792 | 7590 | 08/20/2004 | EXAMINER | |
| MYERS BIGEL SIBLEY & SAJOVEC PO BOX 37428 RALEIGH, NC 27627 | | | | DERAKSHANI, PHILIPPE |
| ART UNIT | | PAPER NUMBER | | |
| | | 3754 | | |

DATE MAILED: 08/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------------|--------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/647,864 | CUNNINGHAM, TREVOR |
| | Examiner | Art Unit |
| | PHILIPPE S DERAKSHANI | 3754 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) ____ is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) See Continuation Sheet are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date ____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date ____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: ____

Continuation of Disposition of Claims: Claims pending in the application are 1,6,7,10,17,18,22,24,30,32,33,40,42,43,50,52,55,58-62,69,70,72-75,79,83 and 88.

Continuation of Disposition of Claims: Claims subject to restriction and/or election requirement are 1,6,7,10,17,18,24,30,32,33,40,42,43,50,52,55,58-62,72-75,79,83 and 88.

DETAILED ACTION***Election/Restrictions***

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Species 1 directed to figures 1-9.

Species 2 directed to figures 10-13.

Species 3 directed to figures 14-17.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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The claims are deemed to correspond to the species listed above in the following manner:

Species 1 drawn to claims 1, 6-7, 10, 17-18, 24, 30, 32-33, 40, 42-43, 79, 83, 88.

Species 2 drawn to claims 50, 52, 55.

Species 3 drawn to claims 58-62, 72-75.

The following claim(s) are generic: At least claim 1.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Species 1 is for an aerosol, species 2 for a vehicle sprayer, species 3 for a pump.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHILIPPE S DERAKSHANI whose telephone number is 703-308-0264. The examiner can normally be reached on 8 hour days.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MANCENE GENE can be reached on 703-308-2696. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PHILIPPE S DERAKSHANI
Primary Examiner
Art Unit 3754

PD
8/18/04



A handwritten signature in black ink, appearing to read "PHILIPPE S DERAKSHANI". To the right of the signature, the date "8/18/04" is written.